

Exhibit A



The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth
Elections Division

March 6, 2012

By Email and U.S. Mail

Ms. Lisa J. Danetz
Demos
358 Chestnut Hill, Suite 303
Brighton, MA 02135

Mr. Rahsaan Hall
Lawyers' Committee for Civil Rights
Under Law of the Boston Bar Association
294 Washington Street, Suite 443
Boston, MA 02108

Ms. Nicole Zeitler
Project Vote
737 1/2 8th Street, SE
Washington, DC 20003

Re: National Voter Registration Act

Dear Attorneys Danetz, Hall and Zeitler:

I write in response to your letter to Secretary Galvin dated December 8, 2011, in which Dr. Judy Ann Bigby, Secretary of Executive Office of Health and Human Services ("EOHHS"), Mr. Daniel J. Curley, Commissioner of the Department of Transitional Assistance ("DTA") and Mr. John Auerbach, Commissioner of the Department of Public Health ("DPH") were copied. In that letter you allege, on behalf of New England United for Justice (hereinafter, "NEU4J") and others, that Massachusetts is not in compliance with Section 7 of the National Voter Registration Act of 1993 ("NVRA"), 42 U.S.C. § 1973gg-5. You claim that Massachusetts does not provide voter registration services at its public assistance offices as mandated by NVRA. Your letter summarizes what you indicate are the results of your investigation of practices and policies of these public assistance offices.

At the end of your communication, you state that your letter "serves as a notice letter pursuant to 42 U.S.C. § 1973gg-9(b) in an attempt to obtain compliance with the public assistance provisions of the NVRA without the need for litigation." You conclude by stating that you are prepared to meet with us to assist in our development of a comprehensive plan for compliance. You indicate that in the absence of such a plan, you will initiate litigation at the conclusion of the statutory 90-day waiting period.

Immediately following receipt of your letter, I spoke with Lisa Danetz via telephone on December 12, 2011, to schedule a meeting to discuss the concerns raised. After consulting with Atty. Danetz and the various departments named in your correspondence to determine a mutually agreeable date on which all parties were available to meet, we

arranged a meeting on February 9, 2012 in the Office of the Secretary of the Commonwealth. The meeting was attended by representatives of the Secretary's Office, EOHHS, DTA, and DPH, as well as attorneys from Demos, Project Vote and Lawyers Committee for Civil Rights representing NEU4J. At that meeting, attorneys for NEU4J provided a bullet point summary containing what NEU4J believes to be elements of a successful program for agency voter registration under the NVRA. At the conclusion of the meeting, representatives of the Commonwealth agreed to review the issues raised and proposals offered, and provide a response.

This Office, as well as EOHHS, DTA, and DPH, have been and continue to be committed to facilitating and administering those programs which provide qualified persons the opportunity to register and vote in Massachusetts, and, in particular, to complying with the requirements of the NVRA. To that end, we welcomed the opportunity to meet with you and discuss your concerns in an effort to continually improve voter registration opportunities.

In response to the issues and concerns you raised at our meeting, we attach a detailed description of the voter registration practices of each relevant office or agency represented at the meeting. You will note that each office or agency has addressed the core concern raised in your December 8th letter and at the February 9th meeting—that public assistance agencies are distributing voter registration forms only when individuals check "Yes" on the NVRA declination form. Specifically, changes have already been made or will be made to our policies and practices to ensure that voter registration forms are distributed even when individuals leave the declination form blank. We also are continuing to seek ways to improve our existing programs through enhanced training and oversight in order to facilitate voter registration opportunities. The attached documents describe such efforts, and, to the extent any on-going issues are identified regarding voter registration practices, this office and all of the agencies represented at our meeting will proactively address those issues moving forward.

Please understand that neither this collective response, nor our February 9th meeting, should be construed as an acknowledgment that the Commonwealth is not in compliance with provisions of the NVRA. Rather, those actions were taken in an effort to work with you to address and respond to your concerns relating to the NVRA.

The Secretary of the Commonwealth, as well as EOHHS, DTA, and DPH, are committed to ensuring that all qualified citizens be afforded an opportunity to register and vote in Massachusetts. We would be happy to receive any further input you may have, as we move forward in our administration of the NVRA.

Sincerely,



Michelle K. Tassinari
Director/Legal Counsel
Elections Division

Office of the Secretary of the Commonwealth

With regard to the Secretary's Office, both in your December letter and at the February 9th meeting, you emphasized the issue of the policy for handling declination forms that are left blank or not signed. We informed you during our meeting that this Office has revised its policy in this regard, and that agencies would be informed that in such an instance where the individual leaves the declination form blank or does not sign it, a Mail-In Voter Registration Affidavit will be distributed to the individual. We have revised our Agency Script and Workbook to reflect this update.

Staffing: Since the NVRA's initial implementation, the Secretary's Office has at all times maintained a NVRA coordinator in the Elections Division.

Also, pursuant to regulations promulgated by the Secretary's Office, 950 C.M.R. § 57.05(2)(a), each voter registration agency must designate a person in the agency who is responsible for voter registration. The NVRA coordinator on the state level has always worked with the contacts from each public assistance agency.

Training: Consistently since the adoption of the NVRA, the state coordinator has met with agency contacts to provide information and training on the NVRA and to address any issues that arise. Additionally, the Secretary's Office has always made itself available to conduct trainings for any agency. Moving forward, the Secretary's Office is preparing a power point training module that may be used by any agency and will be made available on our website.

Voter Registration Paperwork and Materials: The Secretary of the Commonwealth makes the following paperwork and materials available to all public assistance voter registration agencies:

- Agency (two-part) Voter Registration Affidavits (available in English and Spanish);
- Mail-In Voter Registration Affidavits in English, Spanish, Russian, Chinese, Vietnamese, Khmer, Portuguese, Haitian-Creole, Cape Verdean;
- Declination Forms;
- Agency Voter Registration Workbook (recently revised);
- Agency Script (recently revised);
- Envelopes;
- Clerks List, which has the addresses for each local election official;
- Violations of Election Laws/Penalties Posting; and
- Register to Vote Here signs.

Computerized Process: As part of the Voter Registration Information System, once a voter registration application is received by a municipality, the local election official enters the applicant's information, including the code of the agency where the applicant registered if applicable. However, the local election officials do not have access to the codes themselves.

Voter Registration Offers and Distribution of Voter Registration Forms:

Pursuant to the NVRA, as well as state law and regulations promulgated by the Secretary of the Commonwealth, Mass. G.L. c. 51 § 42G and 950 C.M.R. § 57.05(2)(b), the declination form must be distributed with each application for service or assistance, recertification, renewal or change of address. All voters who select that they wish to register to vote are provided with a voter registration form and the same level of assistance in filling out the form as is provided with completing the agency's own forms. 950 C.M.R. § 57.05(2)(d)-(e). If an individual leaves the declination form blank, a mail-in form will be distributed to them. If an agency is distributing its application for service, recertification, renewal or change of address by mail, the agency must include a mail-in voter registration form. 950 C.M.R. § 57.05(2)(g).

Mail-In voter registration forms must also be available at voter registration agencies.

Additionally, all voter registration agencies must accept completed voter registration forms.

Voter Registration Assistance: The same level of assistance must be provided in completing the voter registration form as is provided by the agency in completing its own forms, unless the registrant refuses assistance. 950 C.M.R. § 57.05(2)(e).

Transmittal: Transmittal of voter registration forms by voter registration agencies is governed by state law and regulation, and such forms must be transmitted to the local election official of the city or town where the individual is registering to vote within 5 days of completion. Mass. G.L. c. 51 § 42G and 950 C.M.R. § 57.05(3). The Secretary's Office provides the listing of local election officials and envelopes to each agency for such transmittal.

Oversight: This Office has general oversight over the NVRA process and as such, proactively meets with agency contacts and addresses any issues that arise. Anytime our Office is presented with issues relative to voter registration at public assistance offices, we immediately contact the agency coordinator regarding such matter. This Office continues to monitor NVRA compliance, and will work with public assistance agencies to address any issues that are identified.

Policy Documents and Regulations: The Code of Massachusetts Regulations, 950 C.M.R. § 57.05, provides the procedures to be followed by Voter Registration Agencies, including public assistance offices. This Office also issues the Agency Voter Registration Workbook and Agency Script.

WIC Program (DPH)

Staffing: The Massachusetts WIC program has had and continues to have a designated NVRA Coordinator. Local WIC Program Directors have been and continue to be the designated NVRA Coordinators for their offices.

Training: WIC uses a train-the-trainer model with the local WIC programs. State and local level trainings have been done periodically, ever since WIC was designated as a public voter registration agency. Local Program Directors were most recently trained on the revised Program Manual chapter on Motor Voter and the module for National Voter Registration on February 3, 2012. Training materials for the February 2012 session were distributed in advance, on January 27, 2012.¹ Subsequently, Local Program Directors reviewed the training materials which highlighted motor voter policy and procedures with local program staff. A NVRA update is on the agenda for the next WIC business meeting of Local Program Directors and Senior Nutritionists scheduled for March 15, 2012.

All newly hired program staff attends mandatory new staff training that includes motor voter policy and procedures. The training is held at the WIC Learning Center in Framingham. WIC will continue to include NVRA materials in the training provided to new and existing staff.

Voter Registration Paperwork & Materials:

NVRA Signage: While NVRA signage has been available at WIC locations throughout Massachusetts, as soon as WIC received a copy of the December 8th letter, WIC took the following actions:

- Ordered and distributed additional signs ('Violations of Elections Laws') to local WIC programs in December 2011.
- Ordered additional signs ('Register to VOTE HERE') and distributed to the local WIC Programs on January 27, 2012.
- Instructed all local WIC offices to post and maintain NVRA signage at all times.

Voter Registration Forms (applications and mail-in and declination forms): The Secretary of the Commonwealth provided updated voter registration application forms (with a current field for political party affiliation for the 2012 elections) to WIC which in turn distributed updated forms to all WIC program sites. Samples of the updated forms were scanned into the updated 2012 Program Manual Chapter on Motor Voter. The Secretary's Office has translated and provided voter registration forms and materials in Spanish and Chinese for local WIC programs serving families whose first language is not English and who have limited English proficiency.

Local WIC programs have order sheets provided by the Secretary's Office that they can use to order mail-in voter registration forms (See SOC attachment for list of translated forms) and any other voter registration supplies directly from the Secretary's Office.

¹ Copies of the materials were made available to NEU4J attorneys on February 14, 2012.

WIC uses and retains for 22 months Declination Forms supplied by the Secretary of the Commonwealth.

Computerized Process: Since 2010, WIC integrated NVRA questions into WIC's computer system, "Eos"; these required fields must be completed in order for staff to complete the certification and recertification and change of address screen. The NVRA screen is a "hard stop"; in other words WIC staff cannot proceed without completing the following questions:

Are you registered to vote at this address? Select 'Yes or No'.

If not, would you like to register to vote today? Select 'Yes or No'.

Voter Registration Offers and Distribution of Voter Registration Forms: WIC offers and distributes Voter Registration Application Forms to all applicants/participants when applying for certification, recertification, and reports of change of address unless the applicants/participants answer "NO" to the NVRA questions in Eos and on the Declination Form. WIC also distributes Voter Registration Application Forms to others who wish to register at a WIC site.

If the person does not want to complete the Voter Registration Application Form at the WIC office, WIC distributes a Mail-In Voter Registration Form. The Program Manual was revised to state,² and the 2012 training module³ expressly instructs, that program staff offer (i.e. distribute) a Mail-In Voter Registration Form, if the applicant/participant leaves Declination Form Part A "blank."

Voter Registration Assistance (including language assistance): WIC program staff offer assistance in filling out the Voter Registration Application Form to all applicants/participants at certification, recertification, and reports of change of address who are not registered to vote at the current address and who indicate "yes" to the NVRA question in Eos and on the Declination Form. WIC staff also offer assistance to others who wish to register at a WIC site, as well as applicants/participants whose first language is not English.

WIC offices include bilingual and bicultural staff who offer language assistance, as needed. If program staff offer language assistance applicants/participants whose first language is not English at certification, recertification, and reports of change of address, they offer the same level of assistance with voter registration.

Transmittal: Local WIC Program Directors or their designees at different program sites are responsible for transmitting completed applications to city and town clerks within 5 days of completion. Local WIC programs use the mailing envelopes provided by the Secretary's Office which contain the Secretary's return address to keep the confidentiality of the registration location.

² See, Program Manual page 2 "Note", revising former page 8.

³ See, Power Point slides 30 and 31.

All local WIC Programs have been provided with a hard copy of the MA City and Town Directory of City/Town Election Offices. This resource also is posted on the Secretary of the Commonwealth's website at <http://www.sec.state.ma.us/ele/eleclk/clkidx.htm>.

Oversight (including data reporting and review): The MA WIC NVRA Coordinator receives and reviews monthly tallies from local program directors on the number of registrations completed at each local WIC Program.

The MA WIC NVRA Coordinator has and continues to follow-up, as needed, with programs reporting few or no registrations to review the procedures with staff. The MA WIC NVRA Coordinator annually compiles a spreadsheet tabulating monthly tallies for each local program for every state fiscal year and sends the annual spreadsheet to all local program directors.⁴

The MA WIC Management Evaluation Team monitors local WIC programs on a biannual basis for compliance with numerous performance management standards. WIC included an evaluation standard for motor voter procedures after WIC was designated as a public voter registration agency. WIC is starting a new round of biannual management evaluations that includes a standard for motor voter. Observation of motor voter procedures is now part of the observations conducted at the management evaluation of program staff. The MA WIC Management Evaluation Team monitors and follows up as needed on issues identified during the evaluation of motor voter and other management evaluation standards.

Policy Documents and Regulations: WIC provides the following policy documents:

- WIC Memo 038 (January 27, 2012)
- Revised Program Manual Chapter on Motor Voter (distributed to local WIC programs and to USDA January 2012)⁵
- National Voter Registration Act Training Workshop for local WIC Programs materials (provided to Program Directors on January 27, 2012 in advance of the training session delivered on February 3, 2012)
- FY12 Management Evaluation Program Service Standards
- FY12 Management Evaluation Observation Worksheet (Certification and Recertification)

⁴ DPH provided spreadsheets with tallies for SFY 2005-2011 in response to the LCCRUL public records request.

⁵ DPH provided an earlier version of the Program Manual in response to the LCCRUL public records request.

Department of Transitional Assistance

Staffing: DTA has had and continues to have a designated NVRA Coordinator on staff.

Training: All new caseworkers are trained on their responsibilities under the NVRA. As part of ongoing training protocol, NVRA procedures are described and maintained in an operations memorandum which is accessible and available to all staff. These procedures describe how local office staff must implement voter registration offers and distributions of voter registration forms, the duty to assist and transmittal timelines. Most recently, in May 2011, the Department reissued its voter registration procedures memorandum to its field workers (Operations Memo 2011-18). A copy of the 2011 voter registration procedures was provided to NEU4J, in response to its public records request. In March 2012, this memorandum will be reissued to include revisions stating that an individual who does not explicitly decline to register to vote (i.e., by not signing the declination form or leaving it blank) will have a mail-in registration form distributed to him or her.

In addition, a session on the NVRA has been scheduled at the March 8th statewide directors' meeting. This informational training session is intended to ensure that local office management is up-to-date on NVRA procedures. Subsequent to this meeting, all local offices will hold in-house trainings for all line staff to further ensure that NVRA procedures are appropriately being followed.

Voter Registration Paperwork and Materials: The Secretary of the Commonwealth provided updated voter registration application forms to DTA, which in turn distributed updated forms to its local offices. The Secretary's Office has translated and provided voter registration forms and materials in other languages besides English for local DTA offices serving families whose first language is not English and who have limited English proficiency.

In addition, the Department has always had voter registration signs available to be posted in its local offices. In January of this year, the Department sent all its offices signs in English and Spanish for posting in their waiting rooms regarding the opportunity to register to vote at DTA. The Department's Right to Know pamphlet, which is provided to all benefit applicants, was revised in January to include clients' voter registration rights.

Computerized Process: The Department's eligibility system, BEACON, requires that all the appropriate voter registration questions be asked for its benefit program applicants/participants. BEACON processing of applications, recertifications and reevaluations, including changes of address made during these procedures, cannot be completed (i.e., "a hard stop") without asking the client these questions (e.g., "Is anyone 18 or older . . . currently NOT registered to vote at your current address?"; "Does this person wish to vote?").

Voter Registration Offers and Distribution of Voter Registration Forms: DTA procedures require local office staff to offer and distribute voter registration forms to clients during applications, recertifications and reevaluations, and changes of address. A

client who wishes to register outside the agency is provided with a mail-in registration form. As noted, DTA's voter registration procedures will be revised to state that a client who does not explicitly decline to register to vote (i.e., by not signing the declination form or leaving it blank) will have distributed to them a mail-in voter registration form. This is intended to be consistent with the recently revised Agency Workbook from the Secretary of the Commonwealth's Office.

Voter Registration Assistance: The Department offers assistance to clients in filling out voter registration forms, at the same level as provided during applications, reevaluations, and changes of address for applicants/participants of DTA benefits. DTA offices include bilingual and bicultural staff who offer language assistance, as needed. If program staff offer language assistance to applicants/participants whose first language is not English for applications, recertifications and reevaluations, and changes of address, they offer the same level of assistance with voter registration.

Transmittal: In accordance with NVRA and state law, local DTA offices are responsible for transmitting completed voter registration applications to city and town clerks within 5 days of completion. A copy of the MA City and Town Directory of City/Town Election Offices was made available to local offices through the Secretary of the Commonwealth's website.

Oversight: The Department provides oversight of the NVRA via its NVRA Coordinator with guidance and input from the Secretary of the Commonwealth's Office. As noted, DTA plans to increase training opportunities for field workers and local office management about voter registration procedures. The Department will also designate a local office manager, who will see that voter registration procedures are being met, forms are available and posters posted. Additionally, the BEACON system tracks data on voter registration, such as the number of registrations completed at local DTA offices. DTA's review of this data allows it to identify local offices that appear to have low registration rates and to follow up as needed. DTA is increasing its monitoring of NVRA activities during this election year, and will work to address any issues that are identified in 2012 and subsequent years.

Policy Documents and Regulations: DTA maintains the following documents regarding the NVRA:

- Voter registration procedures operations memoranda (May 2011, to be revised);
- BEACON Users' Guide and BEACON Help Instructions; and
- Voter registration materials provided by the Secretary's office, including Declination Forms (kept for 22 months), updated voter registration and mail-in voter registration forms, MA City and Town Directory of City/Town Election Offices, and Register to Vote Here signage